



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	Before the Examiner
Jeffrey M. Gross et al.)	Bruce E. Snow
)	
Serial No. 10/669,764)	Group Art Unit 3738
)	
Filed September 24, 2003)	Ref. No. 4002-3424/PC889.00
)	
REINFORCED FUSION IMPLANT)	

DECLARATION OF CHRISTOPHER A. BROWN

I, Christopher A. Brown, declare as follows:

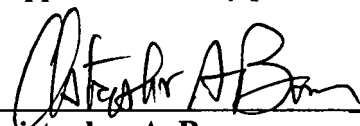
1. I am over 18 years of age, and am otherwise competent to make this Declaration. Unless otherwise stated, I have actual knowledge of all the facts stated in this Declaration.
2. This Declaration is being submitted to establish conception and diligence toward a constructive reduction to practice of the subject matter claimed in the above-identified application in the United States, on or before Thursday, September 18, 2003, which is the publication date of German reference DE 202 05 016 (the "German reference"). The German reference was cited by the patent examiner in an Office Action issued in the above-identified patent application.
3. I am a partner in the law firm of Woodard, Emhardt, Moriarty, McNett & Henry LLP. I am an attorney of record in this application, and I currently have responsibility for prosecuting this application. I have reviewed the records relating to this application in our firm's custody. On information and belief, those records are true and correct. According to those records, the disclosed subject matter associated with Figures 1-12 of the present application was filed with the original filing on September 24, 2003.
4. According to the records of this application, Mr. James J. Bindseil e-mailed a copy of the final draft of the application, with formal drawings, to my firm on Monday, September 22,

2003 for filing. See the redacted document in Exhibit A. At the time, I was acquainted with Mr. Bindseil and I understood that Mr. Bindseil was employed by Medtronic Sofamor Danek and was a registered patent attorney. Insofar as I was an outside counsel for Medtronic Sofamor Danek and worked periodically with Mr. Bindseil, I understood that he had responsibility for coordinating the drafting, filing and prosecuting of numerous applications, among other responsibilities.

5. According to the records concerning this application I have reviewed, the declaration and power of attorney documents for this application were to be sent by overnight courier the following day (Tuesday, September 23, 2003). See Exhibit A. On information and belief, the declaration and power of attorney documents were received by fax on Tuesday, September 23, 2003. On information and belief, standard office procedures relating to intake, docketing, routing, and preparation for filing were followed. According to the records of this application, this application was accordingly filed on Wednesday, September 24, 2003.
6. On information and belief, the drafting of the present application was begun prior to September 18, 2003, by Cary M. Reeves. See redacted documents in Exhibit B. On information and belief, Mr. Reeves is a registered patent attorney. On information and belief, at the time the drafting of the present application was begun, Mr. Reeves was outside counsel for Medtronic Sofamor Danek, and was working at Mr. Bindseil's request.
7. On information and belief, Mr. Reeves further drafted this application prior to September 18, 2003. On information and belief, Mr. Reeves sent a draft of the application to the inventors on a date prior to September 18, 2003. See Exhibit B. On information and belief, the draft

included the drawings also attached in Exhibit B. On information and belief, changes were made to that draft as a final draft was created.

8. On information and belief, Mr. Bindseil no longer works for Medtronic Sofamor Danek.
9. Based on the completion of a draft application prior to September 18, 2003, the timing and dispatch with which Mr. Bindseil sent the application, drawings and filing documents to my firm, and my general familiarity with the level of responsibility and activity for Mr. Bindseil while at Medtronic Sofamor Danek, it is my opinion that a conception of the subject matter disclosed in this application occurred prior to September 18, 2003, and that diligent efforts toward completion and filing of this application began on or before September 18, 2003 and continued through the intervening three business days (on either side of a weekend) to the present application's filing date of September 24, 2003.
10. On information and belief, all acts and events described, identified, or referred to herein occurred in the United States.
11. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 28 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Christopher A. Brown
Reg. No. 41,642
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204

June 12, 2007
Date

4002-3424:467195

[REDACTED]

From: [REDACTED]

Sent: Monday, September 22, 2003 6:07 PM

To: [REDACTED]

Subject: FW: PC889.00 [REDACTED]

Importance: High

Attachments: [REDACTED] (PC889.00) FORMAL DRAWINGS.pdf; [REDACTED]
[REDACTED] (PC889.00) APPLICATION.doc [REDACTED]

-----Original Message-----

From: [REDACTED]

Sent: Monday, September 22, 2003 5:00 PM

To: [REDACTED]

Cc: Bindseil, Jim

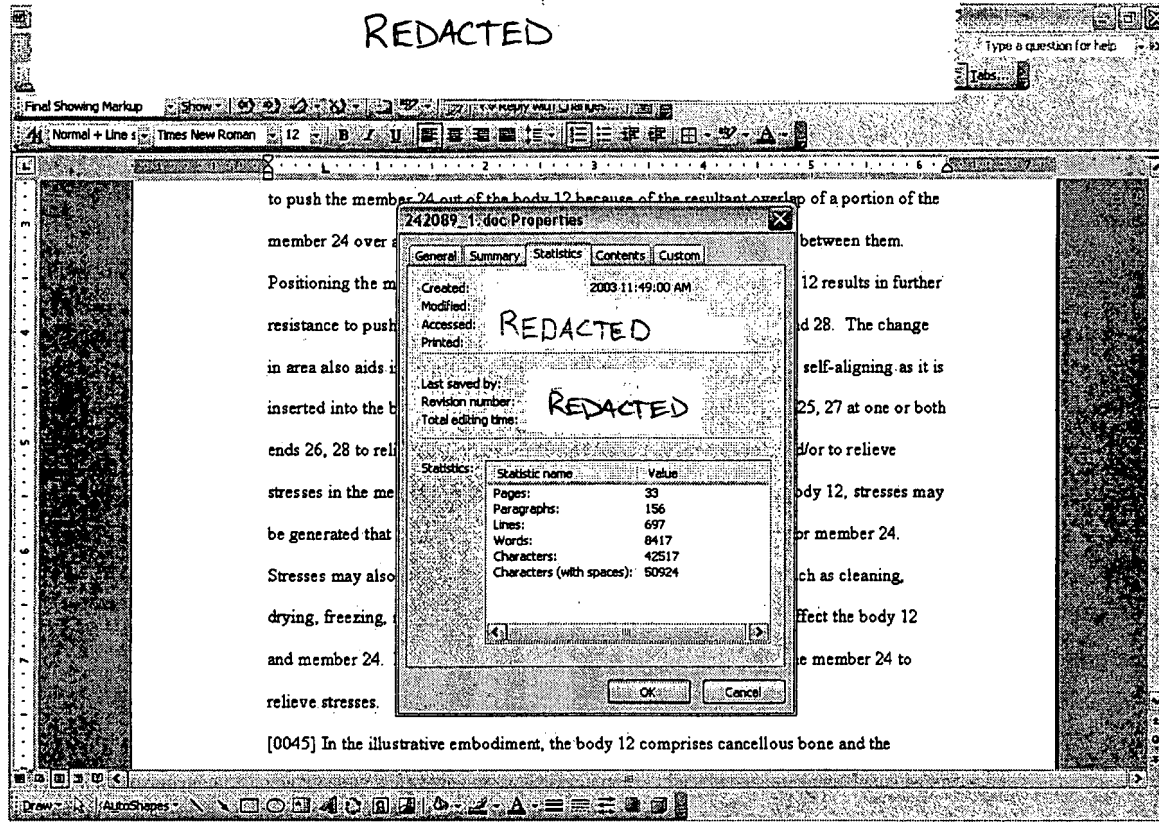
Subject: FW: PC889.00 [REDACTED]

Importance: High

[REDACTED], attached are the Applications for PC889.00. [REDACTED] Thank you for sending the Assignment and Declaration. [REDACTED] I will Fed Ex the Assignments and Declaration/POA tomorrow. Thank you for your assistance with this matter.

[REDACTED]

REDACTED



REDACTED

[REDACTED]

From: Cary R. Reeves [REDACTED]
Sent: [REDACTED] 11:14 AM
To: Gross, Jeffrey, PhD.; Simonton, Andy
Cc: [REDACTED]
Subject: FW: Your Ref: PC889.00 [REDACTED]

Jeff/Andy,

I have been working on a few patent cases for Jim Bindseil. Attached is a draft application [REDACTED]
[REDACTED] Please review it and let me know of any
changes. When you are satisfied with the content please sign the attached Assignment and Declaration and
return them to me at:

Cary Reeves
[REDACTED]

REDACTED